

UNITED STATES DISTRICT COURT
IN AND FOR THE DISTRICT OF WYOMING

STEPHANIE WADSWORTH,)
Individually and as Parent)
and Legal Guardian of W.W,)
K.W., G.W., and L.W., minor)
children, and MATTHEW)
WADSWORTH)

Plaintiffs,)

vs.)

WALMART, INC., and JETSON)
ELECTRIC BIKES, LLC,)

Defendants.)
_____)

No. 2:23-cv-00118-NDF

DEPOSITION OF MICHAEL J. SCHULZ

Tuesday, September 10, 2024

Roseville, California

REPORTED BY: Joy E. Shure, CSR No. 3659

1 scene are obviously made immediately after the witness
2 encounters the situation?

3 MR. AYALA: Form.

4 BY MR. LaFLAMME:

5 Q. I think that probably goes without saying.

6 A. Yeah. Yeah, pretty intuitive.

7 Q. Okay. I am going to, since you haven't seen
8 these before, show you the body camera footage from
9 Ashley Merrill's body cam.

10 A. And you're representing to me that I don't --
11 this is not one of them I have in my file; right?

12 Q. I can tell you it is not.

13 A. Okay.

14 Q. Unless you have additional stuff that was not
15 put into the Dropbox.

16 A. No. Everything's there.

17 Q. All right. So this is a 30-minute video that
18 is denoted "Fire;_1620_HWY_374-2," and that's how it was
19 provided to us.

20 And you don't need to take down the audio on
21 this.

22 THE REPORTER: Okay. Great.

23 BY MR. LaFLAMME:

24 Q. All right. I'm going to go to about 5:30,
25 specifically starting at 5:27.

1 Hold on. Let me get the volume up more for

2 you. All right. And I'll back it up to 5:25.

3 (Video played.)

4 BY MR. LaFLAMME:

5 Q. Are you able to hear that well?

6 A. I am.

7 Q. Is there volume coming out of there or not?

8 A. I think it's coming out of here, yes.

9 Q. Okay.

10 (Video played.)

11 BY MR. LaFLAMME:

12 Q. Do you hear Kamille say, "It started by the
13 shed"?

14 A. I heard that, yes.

15 Q. You have not seen this video before; correct?

16 A. I have not.

17 Q. And Kamille indicated, "It started by the shed"
18 at five minutes 42 seconds.

19 A. Correct.

20 (Video played.)

21 BY MR. LaFLAMME:

22 Q. You heard Kamille and Layne there say that the
23 fire was outside by the shed?

24 A. I heard that, yes.

25 Q. Okay. And you heard Kamille indicate that her

1 parents smoke at the shed; correct?

2 A. Correct.

3 Q. Okay. And that's your understanding of what
4 the shed was used for as well; correct?

5 A. Yeah, it's always been referred to as the
6 "smoking shed."

7 Q. Okay. And you're aware that Mrs. Wadsworth did
8 smoke in that shed in the early morning hours before the
9 fire?

10 A. You want to change your screen because I can
11 see your outline.

12 Q. Oh, thanks.

13 MR. AYALA: It will tell you where he's going
14 with his questions.

15 THE WITNESS: No, that's not fair.

16 BY MR. LaFLAMME:

17 Q. Okay. You're aware that Mrs. Wadsworth smoked
18 in that smoking shed within a couple hours of the fire;
19 correct?

20 MR. AYALA: Form.

21 THE WITNESS: Correct. I think her testimony
22 was she had smoked out there and then was in the house
23 and going to bed in the living room by 2:00 a.m. So
24 sometime prior, just prior to 2:00 a.m. is the way the
25 deposition read.

1 BY MR. LaFLAMME:

2 Q. Okay. You agree that Gunner and Layne are
3 indicating --

4 MR. AYALA: Well, were you done with your
5 answer?

6 THE WITNESS: Yeah. For example, if we make
7 the assumption that the window is broken out and that
8 the fire is on the outside and it's breaching into the
9 bedroom, then I would ask the same question, "Why aren't
10 they burned?"

11 BY MR. LaFLAMME:

12 Q. You agree that Gunner and Layne indicated that
13 the fire was at the window when they woke up; correct?

14 MR. AYALA: Form.

15 THE WITNESS: In their statements to the
16 detective at the time of the event, yes.

17 BY MR. LaFLAMME:

18 Q. Okay. And the statements that you heard in the
19 body camera footage immediately after the fire, Kamille
20 and Gunner also indicated that the fire was outside;
21 correct?

22 MR. AYALA: Form.

23 THE WITNESS: They're making that -- yes.
24 They're making that statement, yes.

25 ///

1 Q. Do you know, as you sit here today, how many
2 cells had expelled?

3 A. I don't know. I wasn't involved in that
4 examination.

5 Q. Do you know the manner in which the cells
6 expelled?

7 A. I don't. I'm not offering opinions on that.

8 Q. You have -- let me strike that.

9 With a fire that initiates from careless
10 disposal of smoking material, that generally can be a
11 smoldering type fire; correct?

12 MR. AYALA: Form.

13 THE WITNESS: It has a high likelihood to do
14 that, yes.

15 BY MR. LaFLAMME:

16 Q. Okay. And in saying "smouldering type fire,"
17 meaning that that is a fire that could initiate a
18 lengthy period of time after the actual careless
19 disposal of smoking materials occurs?

20 A. And before and after the flaming combustion,
21 yes.

22 Q. Meaning if Mrs. Wadsworth had smoked in the
23 smoking shed sometime between 1:30 and 2:00 a.m. and
24 this fire initiated sometime between 4:00 and 4:30 a.m.,
25 and assuming it was due to careless use of smoking

1 material, that time lapse is not unusual with careless
2 use of smoking material-generated fires?

3 MR. AYALA: Form.

4 THE WITNESS: No, it can't be used to exclude
5 that possibility.

6 BY MR. LaFLAMME:

7 Q. Meaning the time difference from which
8 Mrs. Wadsworth testified that she last smoked in the
9 smoking shed and the identification of this fire had it
10 started -- assuming it started in the smoking shed, that
11 time lapse would not exclude careless use of smoking
12 material?

13 A. No.

14 Q. Looking at Pages 56 to 59, this is a list of
15 all the evidence in this case; correct?

16 A. Correct.

17 Q. All right. And aside from visual observations
18 either in person or of photographs, you have not
19 physically inspected any of the evidence in this case?

20 A. Not as part of an evidence exam.

21 Obviously, I looked at the -- I looked at the
22 hoverboard the first time we were there. I looked at
23 the outlet. I looked at some of the branch wiring and
24 so forth, but I did not look at any of this evidence as
25 part of a subsequent organized laboratory inspection.

1 BY MR. LaFLAMME:

2 Q. Okay. You had discussed with Mr. Ayala some of
3 the deposition testimony from the Wadsworth children.

4 Do you agree that that deposition testimony was
5 given in May of this year; correct?

6 A. Yes.

7 Q. So more than two years after the fire; correct?

8 A. Correct.

9 Q. Okay. And do you agree that, as a general
10 statement, people's memories are freshest in the closest
11 in time to the event?

12 MR. AYALA: Form.

13 THE WITNESS: I always agree to that as a
14 general statement, yes.

15 BY MR. LaFLAMME:

16 Q. With respect to the disposal of smoking
17 material, you had indicated that there was no way to
18 reach that conclusion.

19 Do you recall that?

20 A. Correct. That's one of those fire causes that
21 even if that's what occurred, it's very hard to ever
22 prove or reach that conclusion without very credible
23 evidence.

24 Q. And what you are getting at there is that the
25 careless disposal of the smoking material will be

1 subsumed within the fire damage material; correct?

2 MR. AYALA: Form.

3 THE WITNESS: Generally, that's the biggest
4 problem, yes.

5 BY MR. LaFLAMME:

6 Q. Okay. So in this situation --

7 A. Either consumed or even recognized in the
8 processing of the fire scene.

9 Q. Okay. So in this situation, based on an
10 assumption that the fire started due to a careless use
11 of smoking material within the smoking shed, it is not
12 surprising to you that you would not be able to identify
13 the specific cigarette that was carelessly disposed of;
14 correct?

15 MR. AYALA: Form.

16 THE WITNESS: That wouldn't bother me, no.

17 MR. LaFLAMME: Okay. That's all the questions
18 I have, sir.

19 THE WITNESS: Thank you.

20

21 FURTHER EXAMINATION+

22 BY MR. AYALA:

23 Q. In other words, a smoking material that is
24 carelessly disposed of, in this case, based upon the
25 facts and circumstances of this case, in order to

1 shed?

2 A. Yes.

3 Q. You'd have to ignore the physical evidence
4 indicating the origin inside of the home?

5 A. That's the biggest one for me. The origin is
6 not out in the shed, and so I can dismiss the careless
7 use of smoking materials.

8 I'm not -- I do not believe, based on
9 experience all these years, is when somebody says,
10 "Well, I always put my cigarette out and I know it was
11 out," I don't ever rely on that.

12 That may be what they believe that they did.
13 It may or may not be the truth.

14 Q. Which is why in doing what you do for all of
15 these years, you rely on the hard evidence, the physical
16 evidence that indicates the most likely origin?

17 A. Correct. And so in many cases where I have
18 believed it's careless use of smoking materials, I
19 always label those as undetermined.

20 Q. This is not one of those cases?

21 A. No.

22 Q. By the way, you were asked questions about you
23 not being present for certain subsequent inspections of
24 evidence and things of that nature.

25 Did your absence from any other events in this

REPORTER'S CERTIFICATE

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I, Joy E. Shure, a Certified Shorthand Reporter, holding a valid and current license issued by the State of California, CSR No. 3659, do hereby certify:

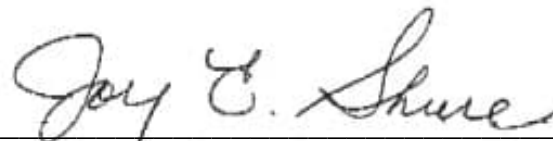
That said proceedings were taken down by me in shorthand at the time and place therein set forth and thereafter transcribed into typewriting under my direction and supervision.

I further certify that I am neither counsel for nor related to any party to said action nor in anywise interested in the outcome thereof.

Before completion of the deposition, review of the transcript [X]was []was not requested.

The dismantling, unsealing, or unbinding of the original transcript will render the Reporter's certificate null and void.

IN WITNESS WHEREOF, I have hereunto subscribed my name on this 25th day of September, 2024.

A handwritten signature in cursive script that reads "Joy E. Shure". The signature is written in dark ink and is positioned above a horizontal line.

Joy E. Shure, CSR No. 3659